

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

IN RE: BAIR HUGGER FORCED AIR MDL No.: 15-md-02666 (JNE/DTS)
WARMING PRODUCT LIABILITY
LITIGATION

This Document Relates To:

PHILIP K. ALBERT, JR.,

Civil Action No.: 18-cv-02938

Plaintiff,

**DECLARATION OF DONALD C. GREEN II IN SUPPORT OF
PLAINTIFF'S RESPONSE TO DEFENDANTS' MOTION TO DISMISS**

I, Donald C. Green II, declare as follows:

1. I am an attorney at Kennedy Hodges, LLP and Counsel for Plaintiff Philip K. Albert, Jr. in the above-captioned matter.
2. I submit this affidavit in opposition to Defendants' Motion to Dismiss for Failure to Comply with Pretrial Order No. 14 [Dkt. 1933] filed on June 5, 2019.
3. Mr. Albert contacted Kennedy Hodges, LLP in October of 2015 regarding injuries that were allegedly caused by the Bair Hugger patient warming device.
4. Medical records and billing records pertaining to Mr. Albert's treatment were obtained by Kennedy Hodges through its third-party medical records retrieval company. Those records indicated that a Bair Hugger device was used during his initial orthopedic surgery.

5. This case was filed on October 16, 2018 to comply with a possible statute of limitations deadline identified by counsel.
6. Several phone calls have been placed to Mr. Albert by staff at Kennedy Hodges in an attempt to obtain information to complete the Plaintiff Fact Sheet. Although staff has managed to speak to Mr. Albert during a few of these phone calls, Mr. Albert has so far been unable to provide the information needed to complete the Plaintiff Fact Sheet.
7. These phone calls were made between September 2018 and June 2019, prior to and continuing after the original deadline for submission of the Plaintiff Fact Sheet.
8. Correspondence regarding the Plaintiff Fact Sheet has also been sent out to Mr. Albert on the following dates: September 6, 2018; February 21, 2019; March 11, 2019, and June 7, 2019.
9. To date, counsel has not been unable to obtain the information from Mr. Albert necessary to complete the Plaintiff Fact Sheet.
10. As we have been unable to obtain the additional information necessary for the Plaintiff Fact Sheet, we have therefore been unable to submit a Plaintiff Fact Sheet for this case which addresses the alleged deficiencies.

Pursuant to 28 U.S.C. § 1746(2), I declare under penalty of perjury that the foregoing is true and correct.

June 12, 2019

/s/Donald C. Green II
Donald C. Green II